

United States Department of Agriculture,
OFFICE OF THE SECRETARY,
BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NO. 2, FOOD AND DRUGS ACT.

MISBRANDING OF MOLASSES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the Enforcement of the Act, notice is given that on the 23d day of April, 1908, in the District Court of the United States for the Western Division of the Western District of Tennessee, in a proceeding of libel for condemnation of eighteen barrels of molasses, labeled and branded "Re-boiled Open Kettle Molasses," wherein the United States was libellant, and Penick & Ford, a corporation, was claimant, the said claimant having admitted the allegations of the libel, a decree of forfeiture and confiscation was rendered, in substance and in form as follows:

In the District Court of the United States for the Western Division of the Western District of Tennessee.

UNITED STATES OF AMERICA *vs.* TWENTY-SIX BARRELS OF MOLASSES.

In this cause it appearing to the court, the United States, by George Randolph, United States Attorney, and Penick and Ford, the claimants and owners of the property seized herein, by their attorney, John D. Martin, consenting thereto, that under the process issued in this cause eighteen barrels of molasses branded "Reboiled Open Kettle Molasses, Penick & Ford, New Orleans, La.," were seized by the United States Marshal in the John H. Poston Warehouse in the city of Memphis, Shelby County, Tennessee, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that said eighteen barrels contained a large per cent of glucose which had been substituted in part for the said molasses and the said brands on the said barrels were misleading and calculated to deceive purchasers.

And it further appearing by like consent that the said Penick & Ford have agreed that an order may be entered at once condemning and confiscating the property to the United States.

It is, therefore, ordered, adjudged, and decreed that the said eighteen barrels of molasses above described now in the possession of the marshal of the court be and the same are hereby declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the said Penick & Ford of the costs of this proceeding and the execution and delivery of a good and sufficient bond to be filed with the clerk in this cause, conditioned that said

eighteen barrels of molasses shall not be sold or otherwise disposed of contrary to the provisions of the act, Chapter 3915, of the Fifty-ninth Congress, commonly known as the Pure Food and Drugs Act, or contrary to the laws of the State of Tennessee, then the marshal of this court is hereby directed to deliver said eighteen barrels of molasses to the said Penick & Ford, or their representatives.

But in the event the said Penick & Ford shall fail to pay the costs of this proceeding, or fail to give bond as above provided within fifteen days from date of the entry of this order, then the Marshal of this court is hereby directed, after first properly branding said eighteen barrels of molasses, to advertise the same for sale in some newspaper published in the City of Memphis, for a period of fifteen days and sell the same on the premises of the John H. Poston warehouse for cash to the highest bidder.

GEORGE RANDOLPH,
U. S. Attorney.

JOHN D. MARTIN,
Attorney for Penick & Ford.

Enter this.

MCCALL, *Judge.*

The following is a statement of the facts upon which the case is based:

On April 7, 1908, an inspector of the Department of Agriculture located on the premises of the John H. Poston Warehouse, Memphis, Tenn., a consignment of goods and purchased a sample thereof, which was labeled as follows: "Penick & Ford Re-Boiled Open Kettle Molasses, New Orleans, La."

The sample purchased was one of a consignment of about 26 barrels of molasses shipped from New Orleans to Penick & Ford, Memphis, Tenn., and held by the said John H. Poston Warehouse subject to the order of Penick & Ford. An analysis of the sample was duly made by the Bureau of Chemistry, Department of Agriculture, and the following results obtained and stated:

Polarization, direct at 28° C	°V	+102.3
Polarization, invert at 28° C	do	+ 75.0
Polarization, invert at 87° C	do	+ 81.2
Sucrose (by 142.66)	per cent	21.22
Glucose (average polarization 175° V.)	do	49.82
Ash	do	3.055

The analysis showed that the product was adulterated within the meaning of section 7 of the act, in that glucose had been substituted in part for the molasses, thereby reducing its quality and strength; and that it was misbranded under section 8, in that the label declared the article to be molasses, when it was in fact a mixture of molasses and glucose.

On April 19, 1908, the facts were reported by the Secretary of Agriculture to the district attorney at Memphis, Tenn. Libel for seizure and condemnation of 18 of the barrels of molasses was duly filed in the district court of the United States for the western division of the western district of Tennessee, under section 10 of the act, upon which seizure

was forthwith made, but before publication of the monition, the claimant, Penick & Ford, appeared, waived the formality, and agreed that the consignment of molasses seized was subject to seizure and confiscation by the United States for the causes stated in the libel. Whereupon the court adjudged the molasses misbranded, and upon the filing of a good and sufficient bond in accordance with section 10 of the act, and under the provisions of the decree hereinbefore set forth, the goods were duly surrendered to the claimant.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,

Board of Food and Drug Inspection.

Approved:

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., May 28, 1908.

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